

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL  
DISTRICT AND WALNUT VALLEY  
UNIFIED SCHOOL DISTRICT.

OAH Case No. 2015030166

ORDER GRANTING REQUEST FOR  
CONTINUANCE AND SETTING  
HEARING DATES

On October 26, 2015, Sacramento City unified School District filed a request to continue the dates in this matter based upon the unavailability of counsel. Sacramento City's counsel is scheduled to be in another hearing in from of the Office of Administrative Hearings on some of the scheduled hearing dates and will be out of town on vacation on others. Both Walnut Valley Unified School District and Student filed non-oppositions to the motion to continue on October 28, 2015. This is Sacramento City's second request for a continuance in this matter and this matter has been pending since February 27, 2015.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. All dates are vacated. However, counsel for Sacramento City is cautioned about making last minute second requests for continuances in the future. On October 12, 2015, counsel for Sacramento City, Sarah Garcia, made a motion to continue this matter because the District's representative and witness in this matter, Becky Bryant, was scheduled to be in hearing in front of OAH on the hearing date scheduled at that time. In her motion to continue, Ms. Garcia only mentioned a conflict for the then scheduled hearing date of October 27, 2015. In her motion to continue, Ms. Garcia did not ask for any specific length of continuance or any specific hearing dates. The matter was continued to November 5, 9 and 10, 2015.

In her new motion to continue those dates, Ms. Garcia complains that the new hearing was scheduled only nine business days later than the original hearing date and then cites conflicts with another later filed OAH hearing and a scheduled vacation. Given the proximity of the first continuance request to the second request, it is clear that these "new" conflicts existed at the time the first continuance was requested. Counsel is cautioned to disclose all potential date conflicts when making any request for a continuance such that successive, last minute requests for continuance are not required.

Sacramento City has shown good cause for a short continuance and this matter will be set for hearing on November 30, 2015, at 1:30 p.m., December 1, 2, and 3, 2015 at 9:00 a.m., and continuing, day to day, Monday through Thursday, at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: October 29, 2015

/s/

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MARGARET BROUSSARD  
Presiding Administrative Law Judge  
Office of Administrative Hearings